

ORIGINAL

FILED

OCT 25 2011

CLERK, U.S. DISTRICT COURT

By

Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

AARON MARTIN, et al.,

Plaintiffs,

v.

GEORGE ZOLEY, et al.,

Defendants.

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Civil Action No. 3:08-CV-490-D

(Consolidated with Civil Action Nos.

3:08-CV-0494-D, 3:08-CV-0502-D,

3:08-CV-0505-D, 3:08-CV-0974-D,

3:08-CV-1034-D, 3:08-CV-1101-D,

3:08-CV-1185-D, 3:08-CV-1299-D,

3:08-CV-1495-D, and 3:08-CV-1768-D)

FINDINGS AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE

Pursuant to the District Court's Standing Order of Reference, the motion to dismiss Willie Hardeman's claims for failure to prosecute ("Motion," doc. 333) of Defendants Babbilli, Hocking, Irdell, and Joshi is before the Court for consideration. Hardeman filed a response entitled "Motion Not to Dismiss for Failure to Prosecute (doc. 347). The Court finds that the motions (doc. 333 and 347) have been rendered moot by Defendants' subsequently filed Motion for Summary Judgment (doc. 375). Accordingly, the Court recommends that the motions (doc. 333 and 347) be denied as moot.

SO ORDERED, October 25, 2011.



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

The United States District Clerk shall serve a copy of these findings, conclusions and recommendation on the parties. Pursuant to Title 28, United States Code, Section 636(b)(1), any party who desires to object to these findings, conclusions and recommendation must serve and file written objections within fourteen days after being served with a copy. A party filing objections must specifically identify those findings, conclusions or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory or general objections. A party's failure to file such written objections to these proposed findings, conclusions and recommendation shall bar that party from a *de novo* determination by the District Court. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Additionally, any failure to file written objections to the proposed findings, conclusions and recommendation within fourteen days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).